

REMARKS

In the Office Action dated November 6, 2002, the specification was objected to for informalities. Claim 1 stands rejected under 35 U.S.C. §112, second paragraph. Claims 1-6, 8, 10-11 and 13 stand rejected under U.S.C. §103(a) over U.S. Patent No. 6,115,892 to Malin et al. (hereinafter "Malin") in view of U.S. Patent No. 5,647,671 to May (hereinafter "May"). Claim 7 stands rejected under U.S.C. §103(a) over Malin in view of May and in further view of U.S. Patent No. 5,023,122 to Boeckmann et al. (hereinafter "Boeckmann"). Lastly, Claims 9 and 12 stand rejected under U.S.C. §103(a) over Malin in view of May and in further view of U.S. Patent No. 6,131,369 to Ausnit (hereinafter "Ausnit").

In view of the above, Applicants have amended the specification, cancelled claim 12 and incorporated its subject matter into amended claim 1, which when considered with the remarks set forth below are deemed to place the application in condition for allowance. Claims 1-11 & 13 remain pending for continued prosecution. Reconsideration of the application is respectfully requested.

Objection to Informalities

The specification was objected to for typographical errors at pages 1 and 3. Applicants thank the examiner for pointing out the errors and the errors have been corrected as suggested. Withdrawal of the objections are respectfully requested.

Rejections under 35 U.S.C. §112, Second Paragraph

Claim 1 stand rejected for lack of antecedent basis for the recitations of "said first interlocking zipper profile" and "said second interlocking zipper profile." In response,

Applicants have amended claim 1 to replace "profile" with "member" which has antecedent basis. No new matter is being added. Withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. §103(a)

As noted above, claims 1-13 stand rejected as obvious over Malin in view of May and in further view of either Boeckmann or Ausnit. In view of the claim 1, as amended, incorporating the subject matter of cancelled claim 12, the rejections based on Malin in view of May and Malin in view of May and Boeckmann are now considered moot.

Applicants respectfully submit that a prima facie cases of obviousness has not been set forth against claim 1, as amended, and therefore dependent claim 2-11 and 13. As set forth in Section 2142 of the Manual of Patent Examining Procedure (M.P.E.P.), a prima facie case of obviousness requires three basic criteria to be met:

First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined), must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, and not on the applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1981)(emphasis added).

Specifically, the combination of Malin, May and Ausnit do not teach or suggest the method of claim 1, as amended. Claim 1, as amended, requires that the zipper be provided with a slider over the interlockable members prior to the subsequent positioning of the zipper on the web. As the examiner will clearly note, Ausnit teaches positioning of the slider after the zipper

is positioned on the web. Applicants also respectfully submit that none of the references provide any motivation for one skilled in the art to modify the teachings of Ausnit to pre-apply a slider to the zipper as presently claimed in claim 1. Thus, a prima facie case of obviousness has not been set forth and the above rejection should be withdrawn.

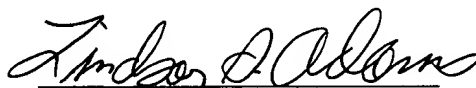
In view of the above, Applicants respectfully submit that claims 1-11 and 13 are in condition for allowance, which action is earnestly submitted. If the Examiner has any questions regarding the amendment, the Examiner is respectfully requested to contact the undersigned attorney.

Applicants do not believe that any fees are due with this amendment other than the requisite fee for a one (1) month extension of time. However, if any fees are due, please charge such sums to our Deposit Account, 50-1145.

A marked-up version of the changes made to the claims is attached hereto as an appendix. In the marked-up version, the words bracketed are being deleted and those underlined are being added by the amendment, which places the amended language in the form given above.

The attached appendix is captioned VERSION WITH MARKINGS TO SHOW CHANGES
MADE.

Respectfully submitted,



Gerald Levy

Registration No. 24,419

Lindsay S. Adams

Registration No. 36,425

Attorneys for Applicants

Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue, 19th Floor
New York, New York 10017
(212) 297-5800

VERSION WITH MARKINGS TO SHOW CHANGES MADE**IN THE SPECIFICATION:**

At page 1, please amend "Description of the Prior Art" as follows:

Reclosable plastic bags are growing increasingly popular both for storage purposes and as primary packaging for cheese and various other food stuffs and other products. Such bags are formed with plastic zipper having profiles with mating interengageable elements. Where the bag is to be used as primary packaging for foods, it is often necessary to seal the product hermetically. While zipper elements can provide a secure closure, they cannot provide a hermetic closure. Accordingly, a separate [a] hermetic seal is necessary. Even where a hermetic seal is not required, it is common-place to provide a separate, one-time seal on reclosable packaging for foods and other products that provides evidence of tampering. That is, the consumer looks to the unopened seal as evidence that the package has not been tampered with.

At page 3, under "Detailed Description of the Preferred Embodiment," please amend the first paragraph as follows:

Reference is now made to the drawings and to Fig. 1 in particular wherein a reclosable plastic bag 10 is depicted comprising front and rear walls 12, 14, a bottom 16, top 18 and sides 20, 22. A zipper 24 extends across the bag top from side to side. A slider 26 can be provided on the profiles of the zipper to facilitate opening and closing the interengaging elements of the profiles. Within the bag 10 there is provided a tamper evident seal 28 that may also provide a hermetic seal. Seal 28 is such that the once opened, it can not be resealed, thereby providing evidence to a consumer if the bag had previously been opened. Seal 28 may comprise a peel seal 30 (as shown in Fig. 2) or a frangible seal 32 (as shown in Fig. 3). The frangible seal 32 may

comprise a capped line of perforations as disclosed and described in U.S. patent 5,023,122. Alternatively, the frangible seal may consist of a partial score line or a thinned line that is readily rupturable by applied pressure.

IN THE CLAIMS:

Please amend Claim 1 in the following manner:

1. (Amended) A method for producing a tamper-evident reclosable plastic bag comprising the steps of:

providing a zipper with first and second zipper profiles that include mating interlocking members, said first and second zipper profiles further including respective first and second flanges, said second flange being longer than said first flange and said second flange including a proximal portion and a distal portion, said proximal portion being more closely spaced to said second profile interlocking member than said distal portion, wherein a slider is positioned over said interlocking members;

positioning said zipper on a web of bag making film with said second interlocking zipper member [profile] atop said first interlocking zipper member [profile];

securing said second flange distal portion to said web; and

transporting said web to a form fill and seal apparatus.

If there are any further fees due in connection with this matter, please charge our deposit account 03-0172. A duplicate of this letter is enclosed for accounting purposes.

Respectfully submitted,


James A. Balazs, Reg. No. 47,401
CALFEE, HALTER & GRISWOLD
800 Superior Avenue, Suite 1400
Cleveland, Ohio 44114-2688
(216) 622-8527